

REMARKS

Applicants have carefully reviewed the Application in light of the Office Action transmitted March 4, 2009 (“*Office Action*”). Claims 1-31 are pending in the Application. The Examiner allows Claims 29-31, rejects Claims 1, 6-8, 13-15, 20-22, and 27-28, and objects to Claims 2-5, 9-12, 16-19 and 23-26. Applicants respectfully request reconsideration of the pending claims and favorable action in this case.

I. Allowable Subject Matter

Applicants appreciate the Examiner’s allowance of Claims 29-31 as noted in the Office Action. Applicants also appreciate the Examiner’s indication that Claims 2-5, 9-12, 16-19, and 23-26 would be allowable if rewritten in independent form. *Office Action*, p. 9.

II. Double Patenting

Claims 1, 8, 15, 22, 29, and 31 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as unpatentable over claims 1, 3, 4, 14, 27, 40, 41, 42, 53, and 54 of copending Application No. 10/804,550 in view of U.S. Patent No. 4,663,748 to Karbowiak (“*Karbowiak*”). As this is a provisional double patenting rejection, Applicants defer the decision to file a terminal disclaimer or traverse the rejection until the Examiner has indicated that the present Application includes allowable subject matter. *See* M.P.E.P. § 804 (subpart I.B.1).

Claims 1, 8, 15, 22, 29, and 31 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as unpatentable over claims 1, 9, 17, 25, and 33 of copending Application No. 10/804,528 (now allowed) in view of *Karbowiak*. As this is a provisional double patenting rejection, Applicants defer the decision to file a terminal disclaimer or traverse the rejection until the Examiner has indicated that the present Application includes allowable subject matter. *See* M.P.E.P. § 804 (subpart I.B.1).

III. Rejections under 35 U.S.C. § 102(b)

The Examiner rejects Claims 1, 6-8, 13-15, 20-22, and 27-28 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,418,785 to Olshansky (“*Olshansky*”). Applicants respectfully traverse this rejection and submit that *Olshansky* does not describe, expressly or inherently, all limitations of the claims.

Consider Applicants’ independent Claim 1, which recites:

An optical node comprising:
a data interface operable to receive data for transmission to a plurality of destinations;

- a buffer operable to store the data;
- a transmitting unit operable to couple to an optical transmission medium having a plurality of data channels and to selectively transmit optical signals on the data channels; and
- a controller operable to receive a token authorizing transmission on one of the data channels, to determine a transmission allocation, wherein the transmission allocation represents an amount of time that the authorized data channel may be utilized to transmit the data, to determine a destination allocation, wherein the destination allocation represents a proportion of the transmission allocation that may be utilized to transmit the data to a particular destination, and to transmit the data on the authorized data channel in accordance with the transmission allocation and the destination allocation.

Among other aspects, *Olshansky* fails to disclose a controller operable “to determine a destination allocation, wherein the destination allocation represents a proportion of the transmission allocation that may be utilized to transmit the data to a particular destination,” as Claim 1 requires.

With respect to Claim 1, Applicants note that the *Office Action* fails to cite to any portion of *Olshansky* as teaching these claimed aspects. *Office Action*, p. 8. With respect to similar limitations in Claim 8, the *Office Action* points to 13:4-6 of *Olshansky* as teaching these claimed aspects. *Office Action*, p. 9. The cited portion recites “placing the address of the second node in the destination address field of the control channel token of the selected data channel.” *Olshansky*, 13:4-6. This cited portion, however, fails to describe, teach, or suggest determining a proportion of anything, much less “determin[ing] . . . a proportion of the transmission allocation that may be utilized to transmit the data to a particular destination,” as Claim 1 requires. Thus, *Olshansky* does not describe, expressly or inherently, “to determine a destination allocation, wherein the destination allocation represents a proportion of the transmission allocation that may be utilized to transmit the data to a particular destination,” as Claim 1 requires.

Independent Claims 8, 15, and 22 include limitations that, for substantially similar reasons, are not disclosed by *Olshansky*. Because *Olshansky* does not disclose, expressly or inherently, every element of independent Claims 1, 8, 15, and 22, Applicants respectfully request reconsideration and allowance of Claims 1, 8, 15, and 22 and their respective dependent claims.

CONCLUSION

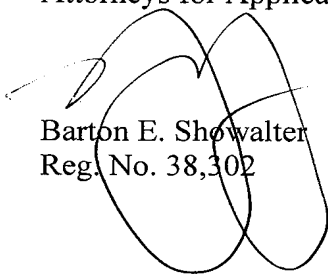
Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicants respectfully request reconsideration and allowance of this Application.

If the Examiner feels prosecution of the present Application may be advanced by a telephone conference, Applicants invite the Examiner to contact the undersigned attorney at (214) 953-6509.

Although no fees are believed to be due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicants


Barton E. Showalter
Reg. No. 38,302

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Customer No. **05073**